

AMENDED IN ASSEMBLY JULY 21, 2003

AMENDED IN SENATE JUNE 4, 2003

AMENDED IN SENATE MAY 20, 2003

AMENDED IN SENATE APRIL 22, 2003

**SENATE BILL**

**No. 445**

**Introduced by Senator Kuehl**

February 20, 2003

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An act to amend Sections 30610.3, 31402.2 and 31402.3 of the Public Resources Code, and to repeal Section 6 of Chapter 518 of the Statutes of 2002, relating to coastal access.

LEGISLATIVE COUNSEL'S DIGEST

SB 445, as amended, Kuehl. Coastal access: State Coastal Conservancy.

(1) Existing law requires the State Coastal Conservancy to accept any outstanding offer to dedicate a public accessway that has not been accepted by another public agency or nonprofit organization within 90 days of its expiration date.

This bill would make a clarifying change in that provision.

(2) Existing law requires the conservancy to open at least 3 public accessways each year either directly or by awarding grants to public agencies or nonprofit agencies for that purpose.

This bill would condition that requirement on the extent that funds are available for that purpose.

(3) Existing uncodified law authorizes the conservancy to transfer public access easements or other less-than-fee interests in property to a public agency or nonprofit organization for development,

management, or public use, and to enter into agreements with those entities for those same purposes.

This bill would codify those provisions and make related changes.

*(4) Existing law established the Coastal Access Account in the General Fund and in the State Coastal Conservancy Fund.*

*This bill would clarify that the Coastal Access Account is only in the State Coastal Conservancy Fund.*

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. *Section 30610.3 of the Public Resources Code*  
2 *is amended to read:*

3 30610.3. (a) Whenever the commission determines (1) that  
4 public access opportunities through an existing subdivided area,  
5 which has less than 75 percent of the subdivided lots built upon,  
6 or an area proposed to be subdivided are not adequate to meet the  
7 public access requirements of this division and (2) that individual  
8 owners of vacant lots in such an area do not have the legal authority  
9 to comply with such public access requirements as a condition of  
10 securing a coastal development permit for the reason that some  
11 other person or persons has such legal authority, the commission  
12 shall implement such public access requirements as provided in  
13 this section.

14 (b) The commission, on its own motion or at the request of an  
15 affected property owner, shall identify an area as meeting the  
16 criteria specified in subdivision (a). After such an area has been  
17 identified, the commission shall, after appropriate public hearings  
18 adopt a specific public access program for such area and shall  
19 request that the State Coastal Conservancy, established pursuant  
20 to Division 21 (commencing with Section 31000), implement such  
21 program. Such access program shall include, but not be limited to,  
22 the identification of specific land areas and view corridors to be  
23 used for public access, any facilities or other development deemed  
24 appropriate, the commission's recommendations regarding the  
25 manner in which public access will be managed, and the types of  
26 permitted public uses. The State Coastal Conservancy shall,  
27 pursuant to its authority, implement such public access program.

1     (c) ~~There is, in the General Fund, the Coastal Access Account.~~  
2     The State Coastal Conservancy shall be authorized to expend  
3     funds when appropriated from the Coastal Access Account for the  
4     purchase of lands and view easements and to pay for any  
5     development needed to carry out the public access program  
6     specified in subdivision (a). Not more than 5 percent of the amount  
7     of funds necessary to carry out each such public access program  
8     may be provided as a grant to the State Coastal Conservancy for  
9     its administrative costs incurred in carrying out the access  
10    program.

11    (d) The State Coastal Conservancy may enter into any  
12    agreement it deems necessary and appropriate with any state or  
13    local public agency or with a private association authorized to  
14    perform such functions for the operation and maintenance of any  
15    access facilities acquired or developed pursuant to this section.

16    (e) Every person receiving a coastal development permit or a  
17    certificate of exemption for development on any vacant lot within  
18    an area designated pursuant to this section shall, prior to the  
19    commencement of construction, pay to the commission, for  
20    deposit in the Coastal Access Account, an “in-lieu” public access  
21    fee. The amount of each such fee shall be determined by dividing  
22    the cost of acquiring the specified lands and view easements by the  
23    total number of lots within the identified area. The proportion of  
24    the acquisition cost that can be allocated to lots built upon pursuant  
25    to permits that were not subject to public access conditions under  
26    this division or the California Coastal Zone Conservation Act of  
27    1972 (former Division 18 (commencing with Section 27000))  
28    shall be paid from the Coastal Access Account. An “in-lieu”  
29    public access fee may be in the form of an appropriate dedication,  
30    in which event the lots to which such dedication can be credited  
31    shall not be counted toward the total number of lots used in  
32    arriving at the “in-lieu” public access fee share for each remaining  
33    lot.

34    (f) For purposes of determining the acquisition costs specified  
35    in subdivision (e), the State Coastal Conservancy may, in the  
36    absence of a fixed price agreed to by both the State Coastal  
37    Conservancy and the seller, specify an estimated cost based on a  
38    formal appraisal of the value of the interest proposed to be  
39    acquired. The appraisal shall be conducted by an independent  
40    appraiser under contract with the State Coastal Conservancy and

1 shall be completed within 120 days of the adoption of the specific  
2 public access program by the commission pursuant to subdivision  
3 (b). Such appraisal shall be deemed suitable for all purposes of the  
4 Property Acquisition Law (Part 11 (commencing with Section  
5 15850 of the Government Code)). For every year following public  
6 acquisition of the interests in land specified as part of a public  
7 access program and prior to payment of the required “in-lieu” fee,  
8 a carrying cost factor equal to 5 percent of the share attributable  
9 to each lot shall be added to any unpaid “in-lieu” public access fee;  
10 provided, however, that a lot owner in such an area may pay the  
11 “in-lieu” public access fee at any time after public acquisition in  
12 order to avoid payment of the carrying cost factor.

13 (g) No provision of this section may be applied within any  
14 portion of the unincorporated area in the County of Sonoma,  
15 commonly known as the Sea Ranch.

16 *SEC. 2.* Section 31402.2 of the Public Resources Code is  
17 amended to read:

18 31402.2. The conservancy shall accept any outstanding offer  
19 to dedicate a public accessway, described in Section 31402.1, that  
20 has not been accepted by another public agency or nonprofit  
21 organization within 90 days of its expiration date.

22 ~~*SEC. 2.*~~

23 *SEC. 3.* Section 31402.3 of the Public Resources Code is  
24 amended to read:

25 31402.3. (a) To the extent that funds are available in the  
26 Coastal Access Account *in the State Coastal Conservancy* Fund,  
27 the conservancy shall open at least three public accessways each  
28 year either directly or by awarding grants to public agencies or  
29 nonprofit organizations.

30 (b) The conservancy may transfer public access easements or  
31 other less-than-fee interests in property to an appropriate public  
32 agency or nonprofit organization for development, management,  
33 or public use, or may enter into agreements with public agencies  
34 and nonprofit organizations for the development, management, or  
35 public use of the accessway. Transfer under this section is not  
36 subject to approval by the Department of General Services  
37 pursuant to Section 11005.2 of the Government Code. The  
38 conservancy shall retain the right to reclaim the easements or other  
39 interests in the event that the public agency or nonprofit



1 organization ceases to exist, is no longer able to manage the  
2 accessway, or violates the terms of the agreement.

3 (c) Before a nonprofit organization may accept an offer to  
4 dedicate an interest in real property under Division 20  
5 (commencing with Section 30000), the nonprofit organization  
6 shall do all of the following:

7 (1) Submit satisfactory proof to the executive director of the  
8 commission that the nonprofit organization has been approved as  
9 a tax exempt public benefit corporation under Section 501(c)(3)  
10 of the Internal Revenue Code, and has filed a Form 990 with the  
11 Internal Revenue Service.

12 (2) Submit a management plan to the executive director of the  
13 commission and the Executive Officer of the conservancy that  
14 describes the nonprofit organization's planned management and  
15 operation of the interest.

16 (3) Grant a right of entry that permits the conservancy to  
17 reclaim or assign the interest to another public agency or nonprofit  
18 organization, if the conservancy and the commission determine  
19 that the nonprofit organization is not managing or operating the  
20 interest consistent with the management plan developed pursuant  
21 to paragraph (2).

22 (d) A public accessway accepted pursuant to Section 31402.2  
23 may not be developed, improved, or formally opened for public  
24 use until its transfer, development, or public use has been  
25 authorized by the conservancy.

26 (e) The conservancy may not use moneys appropriated from  
27 the General Fund for the purposes of this section.

28 ~~SEC. 3.—~~

29 *SEC. 4.* Section 6 of Chapter 518 of the Statutes of 2002 is  
30 repealed.

31 *SEC. 5.* Any funds in the Coastal Access Account in the  
32 General Fund shall be transferred to the Coastal Access Account  
33 in the State Coastal Conservancy Fund.